

D. Direct costs of plant operations and maintenance services include:

- (1) salaries of plant operations and maintenance staff;
- (2) supplies;
- (3) utilities and fuel;
- (4) nondepreciable equipment and repairs not subject to capitalization under Section 4.080, except as in Section 6.010, item K;
- (5) purchased services;
- (6) licensing and permit fees, except as in Section 6.050, item B; and
- (7) accrued vacation and sick leave.

E. Payroll taxes and fringe benefits allocated in accordance with Section 3.060.

**Section 6.030 Administrative operating costs.** The costs listed in this section are included in the administrative operating cost category:

- A. business office functions;
- B. travel expenses except as provided in Section 6.010, items E and G;
- C. motor vehicle operating costs, except as provided in Section 6.010, items E and G;
- D. telephone and telegraph charges, except as provided in Section 6.010, item H;
- E. office supplies;
- F. insurance except as in Section 6.060;
- G. salaries, wages, or fees of top management personnel, accounting and clerical personnel, data processing personnel, receptionists, and other management or administrative personnel;
- H. professional fees for services such as legal, accounting, and data processing

services;

I. business meetings and seminars;

J. postage;

K. training, including the cost of lodging and meals, for management personnel and other personnel not related to direct resident care if the training either meets the requirements of laws or regulations for keeping an employee's salary, status, or position, or maintains or updates skills needed to perform the employee's present duties;

L. membership fees for associations and professional organizations which are directly related to the operation of the facility;

M. subscriptions to periodicals which are directly related to the operation of the facility;

N. advertising and personnel recruitment costs including help wanted advertising;

O. the costs of meals incurred as a result of required overnight business related travel;

P. security services or security personnel;

Q. management fees of a nonrelated organization;

R. working capital interest expense;

S. indirect costs classified in part Section 3.010, item B;

T. central, affiliated, or corporate office costs excluding the property-related costs of capital assets used exclusively by individual facilities in the provider group as in Section 3.040, item D. Central, affiliated, or corporate office costs shall be allocated in accordance with Section 3.040;

U. payroll taxes and fringe benefits allocated in accordance with Section 3.060; and

V. accrued vacation and sick leave.

Section 6.040 **Payroll taxes and fringe benefits.** Only the costs listed in this section are to be included in the payroll taxes and fringe benefits cost category. The Department shall allocate these costs to other cost categories in accordance with Section 3.060.

- A. the employer's share of the social security withholding tax;
- B. state and federal unemployment compensation taxes or costs;
- C. group life insurance and disability insurance;
- D. group health and dental insurance;
- E. workers' compensation insurance, including self-insurance or group insurance plans which meet the requirements outlined in Section 4.160;
- F. either a pension plan or profit sharing plan; and
- G. governmentally required retirement contributions.

Section 6.050 **Property-related cost.** The facility costs listed in this subpart are included in the property-related cost category:

- A. allowance for depreciation of capital assets, except land;
- B. capital debt interest expenses;
- C. rental and lease payments; and
- D. payments permitted under Section 5.000, item BB.

Section 6.060 **Special operating costs.** The facility costs listed in this section are included in the special operating cost category:

- A. special assessments and real estate taxes;
- B. license fees required by the Minnesota Department of Human Services and the Minnesota Department of Health;
- C. real estate insurance;

D. professional liability insurance;

E. the portion of preopening costs amortized as in Section 4.120, item B;

F. training and habilitation services costs; and

G. physical plant modifications or additional depreciable equipment costs allowed under Section 10.000.

Effective October 1, 1995, real estate insurance and professional liability insurance costs are not considered in computing the payment rate for special operating costs. For purposes of reimbursement, these are included with the general operating costs.

## **SECTION 7.000 DETERMINATION OF TOTAL OPERATING COST PAYMENT RATE.**

**Section 7.010 Establishment of allowable historical operating cost per diem.** The Department shall annually review and adjust the operating costs incurred by the facility during the reporting year preceding the rate year to determine the facility's allowable historical operating costs. Each facility's allowable historical operating cost per diem shall be established according to items A to F.

A. The total allowable historical operating cost per diem shall be limited according to subitems (1) to (5).

(1) For the rate years beginning on or after October 1, 1986, the administrative allowable historical operating costs shall be limited as in clauses (a) to (g).

(a) The Department shall classify each facility into one of two groups based on the number of licensed beds reported on the facility's cost report. Group one shall include those facilities with more than 20 licensed beds. Group two shall include those facilities with 20 or fewer licensed beds.

(b) The Department shall determine the administrative allowable historical operating cost per licensed bed for each facility within the two groups in clause (a) by dividing the administrative allowable historical operating cost in each facility by the number of licensed beds in each facility.

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(c) The Department shall establish the administrative cost per licensed bed limit by multiplying the median of the array for each group of administrative allowable historical operating costs per licensed bed by 105 percent.

Effective October 1, 1989, the Department shall establish the administrative cost per licensed bed limit by multiplying the median of the array of allowable administrative allowable historical operating costs per licensed bed for each group by the percentage that establishes the limit at the 75th percentile of the array of each group.

(d) For the rate year beginning October 1, 1989, the maximum allowable administrative historical operating cost shall be the facility's allowable administrative historical operating cost or the amount in clause (c) multiplied by the facility's licensed beds, whichever is less.

(e) For the rate years beginning on or after October 1, 1990, the Department shall increase the administrative cost per licensed bed limit in clause (d) by multiplying the administrative operating cost per bed limit by the composite forecasted index in Section 7.022, item A, except that the index shall be based on the 12 months between the midpoints of the two preceding reporting years.

(f) The administrative cost per licensed bed limit and the average cost of a certified audit determined in this clause must not be adjusted as a result of field audits, appeals, and amendments.

(g) The administrative cost per licensed bed limit and the average cost of a certified audit determined in this clause must not be adjusted as a result of field audits, appeals, and amendments.

(2) The maintenance operating cost limit shall be determined as in the following clauses:

(a) For the rate years beginning on or after October 1, 1986, the allowable historical operating costs in the maintenance operating cost category must not exceed the operating cost payment rate for the maintenance operating cost category in effect during the reporting year times the prorated resident days which correspond to those operating cost payment rates paid during the reporting year.

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(b) For the period January 19, 1988 to September 30, 1988, the allowable historical operating costs in the maintenance operating cost category must not exceed 125 percent of the operating cost payment rate for the maintenance operating cost category in effect during the reporting year times the prorated resident days which correspond to those operating cost payment rates paid during the reporting year.

(c) For the rate years beginning October 1, 1988 and October 1, 1989, the allowable historical operating costs in the maintenance operating cost category must not exceed the amount determined for the period January 19, 1988 to September 30, 1988, increased annually by a percent moving average of the index of average hourly earnings in nursing and personal care facilities for the fourth quarter of the rate year following the reporting year, forecast by Data Resources, Inc. in the second quarter of the calendar year following the reporting year. The maximum administrative allowable historical operating cost shall be the lesser of the facility's administrative allowable historical operating cost or the amount determined in this item multiplied by the facility's licensed beds.

(d) For rate years beginning on or after October 1, 1990, the allowable historical operating costs in the maintenance operating cost category must not exceed the amount determined for the prior rate year, increased annually by the composite forecasted index in Section 7.022, fourth paragraph of item A, except that the index shall be based on the 12 months between the midpoints of the two preceding reporting years.

(3) For the rate year beginning October 1, 1986, the allowable historical operating costs in the administrative operating cost category must not exceed the operating cost payment rate for the administrative operating cost category in effect during the reporting year times the prorated resident days that correspond to those operating cost payment rates paid during the reporting year. Except for the purpose of calculating the efficiency incentive under Section 7.022, item E, this limit on administrative operating costs shall not be in effect for rate years beginning on or after October 1, 1987.

(4) For the rate year beginning October 1, 1986, and October 1, 1987, the facility's total operating cost payment rate in effect during the reporting year must be adjusted for reclassifications in accordance with Section 6.000 and be separated into program, maintenance, special, and administrative operating cost payment rates according to clauses (a) to (c).

(a) The allowable historical operating costs for each of the program, maintenance, special, and administrative operating cost categories including the portion of payroll taxes and fringe benefits in clause (b) incurred during the reporting year must be

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divided by the total allowable historical operating costs incurred during the reporting year.

(b) The allowable historical operating costs for payroll taxes and fringe benefits shall be allocated to the program, maintenance, and administrative operating cost categories in accordance with Section 3.060.

(c) The program, maintenance, special, and administrative operating cost payment rates shall be determined by multiplying each total operating cost payment rate in effect during the reporting year by the program, maintenance, special, and administrative ratios determined in clause (a).

For rate years beginning on or after October 1, 1988, the program operating cost payment rate in effect during the reporting year times the prorated resident days that correspond to those operating cost payment rates paid during the reporting year must be used in computing the total of the limits in the computation of the efficiency incentive under Section 7.022, item E.

(5) The limits in subitems (2), (3), and (4) shall not apply to a facility with a payment rate established according to Sections 12.010 to 12.030.

B. The program allowable historical operating cost per diem shall be computed by dividing the program allowable historical operating costs in that cost category incurred during the reporting year by the greater of resident days or 85 percent of capacity days.

C. The maintenance allowable historical operating cost per diem shall be computed by dividing the maintenance allowable historical operating costs in that cost category incurred during the reporting year as limited according to item A, by the greater of resident days or 85 percent of capacity days.

D. The administrative allowable historical operating cost per diem shall be computed by dividing the administrative allowable historical operating cost in that cost category incurred during the reporting year as limited according to item A, by the greater of resident days or 85 percent of capacity days.

E. For the rate year beginning October 1, 1986, the allowable certified audit cost per diem shall be computed by dividing the allowable certified audit cost as determined in item A, subitem (1), clause (d) by the greater of resident days or 85 percent of capacity days.

F. If a facility's total allowable historical operating cost per diem or allowable historical operating cost per diems in any of the operating cost categories is greater than the respective operating cost payment rate established for the corresponding rate year, there must be no retroactive cost settlement, unless the difference is due to:

- (1) a field audit adjustment; or
- (2) a settle-up payment rate.

**Section 7.015 General operating cost per diem limitation for high cost facilities after September 30, 1995.** For rate years beginning on October 1, 1995, the commissioner shall limit the allowable operating cost per diems, as determined under this section and Section 7.018, for high cost ICFs/MR.

A. "General operating costs" means the facility's allowable operating costs included in the program, maintenance, and administrative operating costs categories, as well as the facility's related payroll taxes and fringe benefits, real estate insurance, and professional liability insurance.

B. Prior to indexing each facility's operating cost per diems for inflation under Section 7.022, the commissioner shall group the facilities into eight groups. The commissioner shall then array all facilities within each grouping by their general operating cost per service unit per diems.

C. The commissioner shall annually review and adjust the general operating costs incurred by the facility during the reporting year preceding the rate year to determine the facility's allowable historical general operating costs as defined in item A. A facility's total operating cost payment rate shall be limited according to subitems (1) and (2).

(1) A facility's total operating cost payment rate shall be equal to its allowable historical operating cost per diems for program, maintenance, and administrative cost categories, multiplied by the forecasted inflation index in Section 7.022, item A, subitem (4), subject to the limitations in subitem (2).

(2) For the rate years beginning on or after October 1, 1995, the commissioner shall establish maximum overall general operating cost per service unit limits according to clauses (a) through (h). Each facility's allowable historical general operating costs as described in this section, and client classification information resulting in weighted service scores obtained under Section 7.018 for the reporting year ending December 31, 1994



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(the base year), shall be used for establishing the overall limits.

(a) The commissioner shall determine each facility's weighted service units for the reporting year by multiplying its resident days in each client classification level as established under Section 7.018 and Minnesota law, by the corresponding weights for that classification level as described in Section 7.018, item A, and summing the results. If the facility has temporary care days, the commissioner shall add to this amount computed in clause (c), subclause (ii).

(b) The facility's service unit score is equal to its weighted service units as computed in clause (a), divided by the facility's total resident days, excluding temporary care resident days, for the reporting year.

(c) For each facility, the commissioner shall determine the facility's cost per service unit by dividing its allowable historical general operating costs for the reporting year by the facility's service unit score calculated in clause (b), multiplied by its total resident days, except:

i. if the facility's occupancy is less than 85 percent of licensed capacity, then divide the allowable historical general operating costs for the reporting year by its service unit score calculated in clause (b) multiplied by 85 percent of the facility's capacity days.

ii. if a facility reports temporary care resident days, the temporary care resident days shall be multiplied by the service unit score calculated in clause (b), and the resulting weighted resident days shall be added to the facility's weighted service units in clause (a) prior to computing the facility's cost per service unit.

(d) The commissioner shall group facilities based on class A or class B licensure designation, number of licensed beds, and geographic location. For purposes of this grouping, facilities with six beds or less shall be designated as small facilities and facilities with more than six beds shall be designated as large facilities. If a facility has both class A and class B licensed beds, the facility shall be considered a class A facility for this purpose if the number of class A beds is more than half its total number of ICF/MR beds; otherwise the facility shall be considered a class B facility. The metropolitan geographic designation shall include Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties. All other Minnesota counties shall be designated as the nonmetropolitan geographic group.

These characteristics result in the following eight groupings:

- i. small class A metropolitan;
- ii. large class A metropolitan;
- iii. small class B metropolitan;
- iv. large class B metropolitan;
- v. small class A nonmetropolitan;
- vi. large class A nonmetropolitan;
- vii. small class B nonmetropolitan; and
- viii. large class B nonmetropolitan.

(e) The commissioner shall then array all facilities within each grouping in clause (d) by each facility's cost per service unit as determined in clause (c).

(f) In each array established under clauses (d) and (e), facilities with a cost per service unit at or above the median shall be limited to the lesser of:

i. the current reporting year's cost per service unit as calculated in clause (c); or

ii. the prior reporting year's allowable historical general operating cost per service unit as calculated in clause (c), plus the inflation factor as established in Section 7.022, item A, subitem (5), increased by three percentage points.

For the rate years beginning October 1, 1997 and October 1, 1998, a 12-bed facility in Stearns County and a 12-bed facility in Sherburne County are exempt from this subitem.

(g) The overall operating cost per service unit limit for each group shall be established as follows:

i. Each array established under clause (e) shall be arrayed again after the application of clause (f);

ii. In each array established in subclause (i), above, two general operating cost limits shall be determined:

1. The first cost per service unit limit shall be established at 0.5 and less than or equal to 1.0 standard deviation above the median of each array.

2. The second cost per service unit limit shall be established at 1.0 standard deviation above the median of each array;

iii. The overall operating cost per service unit limits shall be indexed for inflation annually beginning with the reporting year ending December 31, 1995, using the forecasted inflation index in Section 7.022, item A, subitem (5).

(h) Annually, facilities shall be arrayed using the methods described in clauses (e) and (g), and:

i. Each facility with a cost per service unit at or above its group's first cost per service unit limit, but less than the second cost per service unit limit for that group, shall be limited to 98 percent of its total operating cost per diems, then add the forecasted inflation index in Section 7.022, item A, subitem (4).

ii. Each facility with a cost per service unit at or above the second cost per service unit limit will be limited to 97 percent of its total operating cost per diems, then add the forecasted inflation index in Section 7.022, item A, subitem (4).

iii. The total operating cost per diems is equal to the allowable cost per service unit subject to the limit, multiplied by the facility's service unit score in clause (b).

iv. Effective June 25, 1996, facilities that have undergone a Class A to Class B conversion since January 1, 1990, are exempt from the limitations in this clause for six years after completion of the conversion process. Although the conversion may have taken place before June 25, 1996, federal financial participation (FFP) for this provision will not be available until June 25, 1996.

(3) Effective for rate years beginning on or after October 1, 1996, the operating cost per service unit, for purposes of the cost per service unit limit in clauses (g) and (h) of subitem (2), is calculated after excluding the costs directly identified to the provision of outreach crisis services and a four-bed crisis unit established in Section 17.040. The

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efficiency incentive paid to an ICF/MR as determined in Section 7.022, item E, is not increases as a result of this calculation.

D. The commissioner shall rebase these overall limits when directed to do so by state law, using the methods described in this section, but no more frequently than once every three years.

E. For the rate year beginning October 1, 1995, the commissioner shall exempt an ICF/MR from reductions to the payment rates under this section if the facility:

(1) has had a settle-up payment rate established in the reporting year preceding the rate year for a one-time rate adjustment under Section 7.030;

(2) is a newly established facility or an A to B licensure conversion project under Section 12.000;

(3) has a payment rate subject to the conditions of closure under Section 17.010;

(4) has a payment rate established under a voluntary or involuntary receivership under Sections 14.000 or 15.000, respectively; or

(5) has a proportion of temporary care resident days to total resident days which exceeds 80 percent. For this purpose, "temporary care" means care provided by a facility to a client for less than 30 consecutive resident days.

F. For the rate years beginning October 1, 1996, October 1, 1997, and October 1, 1998, the commissioner shall exempt an ICF/MR from reductions to the payment rates under item C, subitem (2), clause (f) and under Section 7.016 if the facility meets any criteria in item E.

G. For the rate year beginning October 1, 1999, the commissioner shall exempt an ICF/MR from reductions to the payment rates under item C, subitem (2), clause (f) if the facility meets the criteria in item E, subitem (1) or (2) or (3) or (4) or is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

H. For the rate years beginning October 1, 1996, October 1, 1997, October 1, 1998, and, effective November 25, 1997 for the rate years beginning October 1, 1999 and October 1,

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2000, the commissioner shall exempt a facility from the reductions both in this section and in Section 7.016 if:

- (1) the facility is involved in a bed relocation project where more than 25 percent of the facility's beds are transferred to another facility;
- (2) the relocated beds are six or fewer;
- (3) there is no change in the total number of ICF/MR beds for the parent organization of the facility; and
- (4) the relocation is not part of an interim or settle-up rate.

**Section 7.016 Calculation of the facility high cost and spend-up limits for the rate years beginning October 1, 1996, October 1, 1997, October 1, 1998, and October 1, 1999.** For these rate years, the commissioner shall, for purposes of the spend-up limit established in Section 7.015, item C, subitem (f):

A. Array facilities within each grouping in Section 7.015, item C, subitem (d) by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for that reporting year.

B. Facilities with a cost per resident day at or above the median are limited to the lessor of:

- (1) the current reporting year's cost per resident day; or
- (2) the prior reporting year's cost per resident day plus the inflation factor as established in Section 7.022, item A, subitem (5), increased by three percentage points.

C. In no case will the amount of the reduction in item B exceed:

- (1) three percent for a facility with a licensed capacity greater than 16 beds;
- (2) two percent for a facility with a licensed capacity of nine to 16 beds; and

(3) one percent for a facility with a licensed capacity of eight or fewer beds.

D. The commissioner must not apply the limits in Section 7.015, item C, subitem (2), clause (h) for rate years beginning October 1, 1996.

E. Notwithstanding items A through D, the commissioner must also compute facility payment rates based on the limitations in Section 7.015 and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1997. Effective November 25, 1997, for purposes of computing the spend-up limits for the rate year beginning October 1, 1997, the facility's prior cost report year's allowable general operating cost base shall be either the facility's allowed general operating costs used to set the payment rate paid for the rate year beginning October 1, 1996, or the general operating cost base determined pursuant to this item for October 1, 1996, whichever results in the highest payment rate effective October 1, 1997.

F. Effective November 18, 1997, for a provider group that includes seven ICFs/MR with a total of 54 licensed beds and was affected significantly by the severe winter and spring of 1997, the operating cost payment rate for each of its six facilities located in Polk and Norman counties for the rate year beginning October 1, 1997, shall be the operating cost payment rate in effect for each facility on September 30, 1997.

G. Notwithstanding items A through D, the commissioner must utilize facility payment rates based on the laws in effect for October 1, 1998, payment rates and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1999.

**Section 7.018. Determination of a facility's weighted service units.** In order to establish payment rates for rate years beginning on or after October 1, 1995, client assessment and client classification information will be reported.

A. The commissioner of human services shall assign weights to each client's classification according to the following table:

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<u>Classification</u>	<u>Classification Weight</u>
1S	1.00
1I	1.04
2S	1.36
2I	1.52
3S	1.58
3I	1.68
4S	1.87
4I	2.02
5S	2.09
5I	2.26
6S	2.26
6I	2.52
7S	2.10
7I	2.37
8S	2.26
8I	2.52

B. To establish the service characteristics of clients and assign a classification level, the Minnesota Department of Health case mix review program shall assess all clients annually. The facility's qualified mental retardation professional (QMRP) with primary responsibility for the client's individual program plan, in conjunction with the interdisciplinary team, shall assess each client who is newly admitted to a facility.

C. Minnesota law and rules describe the schedule of assessment, procedures for reassessment, and reclassification of clients. Client assessments completed by the case mix review program and the facility QMRP must be recorded on assessment forms developed by the commissioner of health.

D. The assessment provides scoring in the domains of personal interaction, independence, and integration, challenging behaviors and preventive practice, activities of daily living, and special treatments. Scores must be based on information from the assessment form. A client's score from each assessment domain shall be used to determine that client's classification.

E. The commissioner of health shall determine and assign classifications for each client using information from the completed assessment form submitted by the case

mix review program team or the facility QMRP.

**Section 7.019 Changes to ICF/MR rates beginning October 1, 1999.**

For the rate year beginning October 1, 1999, the Department will make an adjustment to the total operating payment rate for a facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs means allowable program operating cost category employee training expenses and allowable salaries, payroll taxes, and fringe benefits for all employees except the administrator and central office staff.

A. Facilities that have rates governed by closure agreements, receivership agreements, or interim rates are not eligible for these adjustments.

B. For the rate year beginning October 1, 1999, the payment rate is increased by 4.6 percent of compensation-related costs and 3.2 percent of all other operating costs. A facility's most recent cost report submitted for desk audit will be used to calculate the adjustment.

C. To receive the total operating payment rate adjustment, a facility must apply to the Department. The application must contain a plan by which the facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan.

(1) The Department will review the plan to ensure that the payment rate adjustment is used as provided in item B.

(2) To be eligible, a facility must submit its plan for the payment rate adjustment by December 31, 1999. If a facility's plan for the payment rate adjustment is effective for its employees after October 1 of the year in which the funds are available, the payment rate adjustment shall be effective on the date specified in the plan.

D. The Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item B, divided by the facility's actual resident days.



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**Section 7.020 Changes to ICF/MR rates beginning October 1, 2000.**

For the rate year beginning October 1, 2000, the Department will make an adjustment to the total operating payment rate for a facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs means allowable program operating cost category employee training expenses and allowable salaries, payroll taxes, and fringe benefits for all employees except the administrator and central office staff.

A. Facilities that have rates governed by closure agreements, receivership agreements, or interim rates are not eligible for these adjustments.

B. For the rate year beginning October 1, 2000, the payment rate is increased by:

(1) 6.6 percent of compensation-related costs, 45 percent of which must be used to increase the per-hour pay rate of all employees except administrative and central office employees by an equal dollar amount and to pay associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance provided that this portion of the compensation-related increase must be used only for wage increases implemented on or after October 1, 2000, and must not be used for wage increases implemented before that date;

(2) and 2.0 percent of all other operating costs.

A facility's most recent cost report submitted for desk audit will be used to calculate the adjustment.

C. To receive the total operating payment rate adjustment, a facility must apply to the Department. The application must contain a plan by which the facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan only if the agreement is finalized after May 16, 2000.

(1) The Department will review the plan to ensure that the payment rate adjustment is used as provided in item B.

(2) To be eligible, a facility must submit its plan for the payment rate adjustment by December 31, 2000. If a facility's plan for the payment rate adjustment is effective for its employees after October 1 of the year that the funds are available, the payment rate adjustment shall be effective the same date as its plan.

D. The Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item B, divided by the facility's actual resident days.

**Section 7.022 Establishment of total operating cost payment rate.** The total operating cost payment rate shall be established according to items A to F.

A. The inflation factors in effect for various rate years and periods are found in the following subitems:

(1) For the rate year beginning October 1, 1986, and for the first three months of the rate year beginning October 1, 1987, the allowable historical operating cost per diems determined according to Section 7.010, items B to D, shall be adjusted by the annualized percentage change in the all urban consumer price index (CPI-U) for Minneapolis-Saint Paul as published by the Bureau of Labor Statistics, United States Department of Labor, between the two most recent Decembers before the beginning of the rate year. The year 1967 is the standard reference base period. For the rate year beginning October 1, 1986, the allowable certified audit cost per diem in Section 7.010, item E, shall not be adjusted by the CPI-U.

(2) For the rate period beginning January 1, 1988, the allowable historical operating cost per diems determined according to subpart 1, items B to D, shall be adjusted by the annualized percent moving average of the index specified in Section 7.010, item A, subitem (1), clause (f). Also, for the period January 19, 1988, to September 30, 1988, the program allowable historical operating cost per diem determined according to Section 7.010, item B, shall be adjusted by adding 2.46 to the annualized percent moving average of the index specified in Section 7.010, item A, subitem (1), clause (f).

(3) For rate years beginning on or after October 1, 1988, the allowable historical operating cost per diems shall be adjusted by a composite forecasted index

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established by the Department to take into account the economic trends and conditions between the midpoint of the facility's reporting year and the midpoint of the following rate year. The index shall incorporate Data Resources, Inc. forecast of increases in the average hourly earnings of nursing and personal care workers indexed in Standard Industrial Code 805 in *Employment and Earnings* published by the Bureau of Labor Statistics, United States Department of Labor. This portion of the index shall be weighted annually by the proportion of total allowable salaries and wages to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities.

For adjustments to the other operating costs in the program, maintenance, and administrative operating cost categories, the statewide index must incorporate the Data Resources, Inc. forecast for increases in the national CPI-U. This proportion of the index must be weighted annually by the proportion of total allowable other operating costs to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities. The Commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the reporting year.

(4) For rate years beginning on or after October 1, 1990, the Department shall index a facility's allowable operating costs in the program, maintenance, and administrative operating cost categories by using Data Resources, Inc. forecast for change in the Consumer Price Index-All Items (U.S. city average) (CPI-U). The Department shall use the indices as forecasted by Data Resources, Inc. in the first quarter of the calendar year in which the rate year begins, and shall be based on the 21-month period from the midpoint of the facility's reporting year to the midpoint of the rate year following the reporting year.

(5) For rate years beginning on or after October 1, 1995, the CPI-U forecasted index for the overall operating cost limits described in Section 7.015 shall be determined in the first quarter of the calendar year in which the rate year begins, and shall be based on the 12-month period between the midpoints of the two reporting years preceding the rate year.

B. The program operating cost payment rate shall be the adjusted program operating cost per diem computed in item A except as provided in Section 7.030.

C. The maintenance operating cost payment rate shall be the adjusted maintenance operating cost per diem computed in item A.

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D. The administrative operating cost payment rate shall be the adjusted administrative operating cost per diem computed in item A.

E. If the reporting year's total operating cost excluding special operating costs, is less than the sum of the limits computed in Section 7.010, item A, subitems (2), (3), and (4), the facility shall receive the difference divided by the greater of resident days or 85 percent of capacity days as an efficiency incentive, up to a maximum of \$2 per resident day. Beginning January 19, 1988, if the reporting year's total allowable operating cost after all limits excluding special operating costs, is less than the sum of the limits computed in Section 7.010, item A, subitems (2), (3), and (4), the facility shall receive the difference divided by the greater of resident days or 85 percent of capacity days as an efficiency incentive, up to a maximum of \$2 per resident per day. Effective for rate years beginning on or after October 1, 1993, the maximum efficiency incentive is \$1.50 per resident per day. A facility whose program allowable historical operating cost incurred during the reporting year is below the program historical operating cost limit established in Section 7.010, item A, subitems (2), (3), and (4) is not eligible to receive the efficiency incentive. The efficiency incentive must not be adjusted as a result of a field audit.

F. The total operating cost payment rate shall be the sum of items B to E. For the rate year beginning October 1, 1986, the total operating cost payment rate shall be the sum of items B to E and the allowable certified audit cost per diem as determined in Section 7.010, item E. The Department shall incorporate the special rate setting procedures in Sections 7.024 and 7.026 for determining operating cost payment rates for rate years beginning on October 1, 1988, and October 1, 1989.

**Section 7.024 Interim rates.** For rate years beginning October 1, 1988 and October 1, 1989, the Department shall establish an interim program operating cost payment rate for care of residents in ICFs/MR.

A. For the rate year beginning October 1, 1988, the interim program operating cost payment rate is the greater of the facility's 1987 reporting year allowable program operating costs per resident day increased by the composite forecasted index in Section 7.022, item A, or the facility's January 1, 1988, program operating cost payment rate increased by the composite forecasted index in Section 7.022, item A, except that the composite forecasted index is established based on the midpoint of the period January 1, 1988, to September 30, 1988, to the midpoint of the following rate year.

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B. For the rate year beginning October 1, 1989, the interim program operating cost payment rate is the greater of the facility's 1988 reporting year allowable program operating costs per resident day increased by the composite forecasted index in Section 7.022, item A, or the facility's October 1, 1988, program operating cost payment rate increased by the composite forecasted index in Section 7.022, item A, except that the composite forecasted index is established based on the midpoint of the rate year beginning October 1, 1988, to the midpoint of the following rate year.

C. Temporary payment rate provisions. If an ICF/MR located in Kandiyohi County:

(1) was sold during 1994;

(2) is unable to obtain records necessary to complete the cost report from the former operator at no cost; and

(3) delicensed two beds during that year, then the commissioner shall determine the payment rate for the period May 1, 1995 through September 30, 1996, as provided in clauses (a) to (c).

(a) a temporary payment rate shall be paid which is equal to the rate in effect as of April 30, 1995.

(b) The payment rate in clause (a) shall be subject to a retroactive downward adjustment based on the provisions in clause (c).

(c) The temporary payment rate shall be limited to the lesser of the payment in clause a or the payment rate calculated based on the facility's cost report for the reporting year January 1, 1995 through December 31, 1995, and the provisions of ~~this~~ Section 7.015 and the reimbursement rules in effect on June 30, 1995, except that the provisions referred to in subclauses i and ii shall not apply:

i. the inflation factor in Section 7.022 and

ii. Section 2.160.

**Section 7.026 Settle-up of costs.** The facility's program operating costs are subject to a retroactive settle-up for the 1988 and 1989 reporting years, determined by the following